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August 23, 2018

VIA ECF and E-MAIL

United States District Court
Southern District of New York
40 Foley Square, Room 2104
New York, New York 10007
SullivanNYSDChambers@nysd.uscourts.gov
Courtroom 905

Re: *MICHAEL UNDERWOOD v. TAFSC HOUSING DEVELOPMENT FUND CORPORATION et al.*; Case No. 18-cv-06664
Opposition to Plaintiff's Request for Settlement Conference

Dear Judge Sullivan:

This office represents Defendant, New York State Homeless Housing and Assistance Corporation ("NYSHHAC"), in the above referenced action.

In reply to Plaintiff's August 22, 2018 letter (the "Letter"), (i) Plaintiff has not terminated Plaintiff's employment nor has NYSHHAC ever had an employment or joint-employer relationship with Plaintiff, and (ii) NYSHHAC opposes Plaintiff's premature request that this action be referred to a Magistrate-Judge for a settlement conference.

NYSHHAC did not terminate Plaintiff's employment nor has NYSHHAC ever had an employment relationship with Plaintiff nor the "6-7 employees" as Plaintiff misleadingly alleges in its Complaint. Complaint at paragraph 18. Upon information and belief, Plaintiff was both hired and terminated by Ms. Linda Washington, the Executive Director of Defendant TAFSC Housing Development Fund Corporation (the "Co-defendant HDFC"), not NYSHHAC. The State litigation¹ which Plaintiff alludes to has nothing to do with this action because it dealt solely with Co-defendant HDFC's violation of the FAA as a result of its failure to manage itself.

This Court should not refer this action for a settlement conference pursuant to Local Civil Rule 83.9(f) because this action is not yet ripe for settlement discussions through judicial settlement conferences and/or mediation. Instead, because Plaintiff failed to plead and could not plead that under FLSA and NYLL, NYSHHAC has an employment or a joint-employer relationship with Plaintiff, Plaintiff action

¹ Pursuant to Your Honor's Individual Rules and Practices, Section 2(a) (the "Rules"), NYSHHAC respectfully requests submitting the decision rendered by the Supreme Court of New York, Bronx County in *New York State Homeless Housing And Assistance Corporation v. TAFSC Housing Development Fund Corporation et al.* (the "State Litigation") to demonstrate that its genesis is in fact that NYSHHAC was prevented from any supervision whatsoever (accounting, policy, management).



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should be dismissed. To that end, NYSHHAC shall be submitting a pre-motion letter seeking a pre-motion conference for leave to file a pre-answer motion to dismiss this action as against NYSHHAC.

Respectfully Submitted,

/S/ Daniel Goldenberg
Daniel Goldenberg, Esq.

cc:

VIA ECF

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